UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,893	11/13/2003	Dae-Sung Han	1594.1295	6097

21171 7590 03/15/2005

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER	
COCKS, JOSIAH C	
ART UNIT	**PAPER NUMBER**
3749	

DATE MAILED: 03/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/705,893	HAN ET AL.
	Examiner	Art Unit
	Josiah Cocks	3749

6D

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 December 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-17* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Receipt of applicant's amendment filed 12/15/2004 is acknowledged.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-6 and 9-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,508,024 to Perkins ("Perkins") in view of U.S. Patent No. 6,125,838 to Hedgpeth ("Hedgpeth").

Perkins discloses in Figures 1-7 a cooking apparatus similar to that described in applicant's claims 1-6 and 9-18. In particular, Perkins shows at least one heating unit (71), a grill unit (76) and a cover (62) defining a cooking space thereunder and having an air ventilation structure (64) located in a top portion of the cover to ventilate air out of the cooking space (see Fig. 5). In regard to the recitation of the claims that the air outlet holes range from 5% to 25% of an effective area of the grill unit, as shown in Figs. 4 and 5 the air ventilation holes appear to lie within this recited range. However, even if the area of these holes is not considered to be in the recited range, it is noted that Perkins specifically discloses that the amount of ventilation is selectable to control the rate of cooking and amount of smoke exhausted (see col. 6, lines 1-13 and prior discussion of exhaust ports 43, col. 4, lines 49-68). Therefore, to have selected a specific percentage of outlet area would be simply a matter of optimizing the exhaust port size of the prior art outlets of Perkins obtainable through routine experimentation and is not considered to be patentably distinct. See MPEP § 2144.05(II)(A).

Perkins possibly does not disclose an air ventilation structure to ventilate air into the cooking space that is located on the cover and specifically a side portion of the cover

Hedgpeth teaches a cooking apparatus that is analogous to that of Perkins. In Hedgpeth, a plurality of adjustable intake air ventilation ports (76) (see Fig. 2) are located on the side of a cover (24) of the cooking apparatus.

In regard to the limitations of the claims that the air ventilation structure allows the temperature of the cooking space to be maintained below 260 degrees C., both Perkins and Hedgpeth teach that their ventilation holes are adjusted to control the temperature of the cooking space (see Perkins, col. 4, lines 51-52 and Hedgpeth, col. 7, lines 3-6). Therefore, to have

selected a specific temperature to maintain the cooking space at would be simply a matter of optimizing the temperature adjustment of the prior art obtainable through routine experimentation and is not considered to be patentably distinct. See MPEP § 2144.05(II)(A).

Therefore, in regard to claims 1-6 and 9-17, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the cover of Perkins to incorporate the air intake ventilation holes of Hedgpeth allow for regulation of the air intake to desirably control cooking chamber temperature (see Hedgpeth, col. 7, lines 3-11). The placement of air intake holes in the cover being preferable to the air intake holes located in the base, such as shown in Perkins, because the base location is understood to potentially cause flame burn out (see Hedpeth, col. 1, line 17-24)

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Perkins in view of Hedgpeth as applied to claim 1 above, and further in view of U.S. Patent No. 5,189,945 to Hennick ("Hennick") (cited by applicant).

Perkins in view of Hedpeth teach all the limitations of claim 7 except for a pair of water tanks and a plurality of grilling pipes communicating with the water tanks.

Hennick discloses in Figures 1-17 a cooking apparatus that is considered analogous to that of Perkins. In Hennick, the cooking apparatus includes a heating unit (2), and a grill unit having a plurality of grilling pipes (12) communicating with a pair of water (19) tanks to allow flow of water through the pipes (see col. 5, lines 17-42).

Therefore, in regard to claim 7, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the cooking apparatus of Perkins to

incorporate the water tanks and grilling pipes of Hennick as these structures desirably aid in the cleaning grill components and prevent the undesirable occurrences of grease burning on the cooking surface and food sticking to the cooking surface (see Hennick, col. 3, lines 55-66).

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Perkins in view of Hedpeth, as applied to claim 1 above, and further in view of UK Patent No. 2 286 111 ("'111 UK Patent") (cited by applicant).

Perkins in view of Hedpeth teach all the limitations of claim 8 except for a heat reflecting unit containing water therein to prevent materials dropped from the food from being burned.

The '111 UK Patent discloses in Figures 1-7 a cooking apparatus considered to be in the same field of endeavor as Perkins. In the '111 UK Patent, the cooking apparatus comprises at least one heating unit (23), a grill unit (14), and a heat-reflecting unit that includes two reflectors (24) connected to one another by a reservoir (15) containing water that receives materials dropping from the food on the grill unit (see item 15 and page 2, lines 6-9).

Therefore, in regard to claim 8, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the cooking apparatus of Perkins to incorporate the heat reflecting unit with water reservoir as shown in the '111 UK Patent to desirably make the heating device more efficient (see the '111 UK Patent, page 3, lines 7-11) and to receive and dispose of materials dropping from the food located on the grill (see the '111 UK Patent, page 2, lines 6-9).

Response to Arguments

7. Applicant's arguments filed 12/15/2004 have been fully considered but they are not persuasive. Applicant's cancellation of claim 18 is noted.

Applicant argues that there is mo motivation to combine the cover mounted air intake ports of Hedgpeth with the cover of Perkins because Perkins already shows adjustable intake ports located in the base of hit grill unit. In response to this argument, the examiner notes that the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). The combined teachings of Perkins and Hedpeth would suggest to a person of ordinary skill in the art that in the cooking apparatus art a cover for the apparatus would include an air outlet (as in Perkins) and an air intake (as in Hedpeth). Further, the hood air intake location of Hedpeth is preferable to the base located air intake holes, such as in Perkins, because the air intake holes in the base can potentially contribute to blow our of the burner flame (see Hedpeth, col. 1, lines 17-24).

Applicant also argues that the reflectors (24) in the '111 UK Patent (termed by applicant as "Makris") do not contain water therein. However, the examiner considers that the reflectors (24) are part of a reflector unit that includes both reflectors (24) and the water containing reservoir (15) therebetween.

Accordingly, applicant's claims are not considered to read over the prior art relied upon by the examiner.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is (571) 272-4874. The examiner can normally be reached on weekdays from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus, can be reached at (571) 272-4877. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://portal.uspto.gov/external/portal/pair. Any questions on access to the Private PAIR system should be directed to the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

jcc
March 9, 2005

JOSIAH COCKS
PRIMARY EXAMINER
ART UNIT 3749